

## § 266.652

Debenture interest payment to the date an application for final claim payment is received by the Commissioner.

### § 266.652 Determining share of loss.

The total loss computed in § 266.646 shall be shared by HUD and the HFA in accordance with their respective percentage of risk as specified in the note and the addendum to the Risk-Sharing Agreement between HUD and the HFA.

### § 266.654 Final claim settlement and HFA Debenture redemption.

(a) *Final claim payment.* If the initial claim amount, as determined under § 266.628(a)(1), is less than HUD's share of the loss, HUD shall make a final claim payment to the HFA that is equal to the difference between HUD's share of the loss and the initial claim amount and shall return the HFA Debenture to the HFA for cancellation.

(b) *HFA reimbursement payment.* If the initial claim amount, as determined under § 266.628(a)(1), is more than HUD's share of the loss, the HFA shall, within 30 days of notification by HUD of the amount due, remit to HUD an amount that is equal to the difference between the initial claim amount and HUD's share of the loss. The funds must be remitted in a manner prescribed in the Commissioner's administrative procedures. The HFA Debenture will be considered redeemed upon receipt of the cash payment. A 5 percent penalty will be charged and interest at the debenture rate will begin to accrue if the cash payment is not received within

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the prescribed period. If an HFA is in default under an existing debenture and files a claim on another project under this part, HUD will charge the HFA's Dedicated Account for the amount owed the Department. In cases of top-tier or A-rated HFA's which are not required to maintain a Dedicated Account, HUD will inform the rating agencies of the HFA's failure to pay on their debt obligation and of its violation of the Risk-Sharing Agreement.

(c) *Losses.* Losses sustained as a consequence of the (sole) negligence of an HFA (*e.g.*, failure to acquire adequate hazard insurance where such insurance is available) shall be the sole obligation of the HFA, notwithstanding the risk apportionment otherwise agreed to by HUD and the HFA.

(d) *Supplemental claim.* Any supplemental claim must be filed within one year from date of final claim settlement.

### § 266.656 Recovery of costs after final claim settlement.

If, after final claim settlement, the HFA recovers additional sums as the result of the sale of the project or otherwise, the total amount of such recovery shall be shared by HUD and the HFA in accordance with the prescribed percentage of shared risk.

### § 266.658 Program monitoring and compliance.

HUD will monitor the performance of the HFA for compliance with the provisions of this subpart.

## SUBCHAPTER C—PLANNING ASSISTANCE TO HOUSING SPONSORS [RESERVED]

## SUBCHAPTER D—PUBLICLY FINANCED HOUSING PROGRAMS [RESERVED]